

## II. REMARKS

The office action is substantively identical to the prior office action except (1) it relies upon *Bilski* in its 101 rejection, (2) rejects only claims 1 and 28 under 35 USC 101, and (3) includes rejection under 35 USC 103 of the previously withdrawn claims but based upon the same evidence and rationales as the previous rejections under 35 USC 103 of the other claims..

In response to the rejection under 35 USC 101, claim 1 has been amended to recite actual device structure. Rejection of claim 28 was improper because claim 28 contained means plus function recitations and therefore was limited to embodiments in the specification, all of which included hardware. However, to avoid the issue claim 28 is amended to expressly recite structural elements.

In response to the new rejections under 35 USC 103, they are improper at least for the reasons noted in response to the prior office action relating to the other claims. All arguments in the prior appeal brief relating all other rejections are incorporated herein by reference and will be re presented in the appeal brief to be filed promptly after filing of this amendment.

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